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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,440	11/08/2001	Kari Kirjavainen	U 011573-2	8064

7590

10/03/2002

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EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/010,440

Applicant(s)  
Kirjavainen et al.

Examiner  
James F. Hook

Art Unit  
3752



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 27, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☒ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 7 6) ☐ Other:

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## DETAILED ACTION

### *Specification*

1. The abstract of the disclosure is objected to because it is more than one paragraph in length and is not directed toward the article being claimed. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 112*

2. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 4, it is claimed that the electrode layer can be used to reproduce sound which is opposite to the signal measured from the inside of the pipe, but fails to claim structure to provide a complete operative structure, wherein it is considered without structure to detect the wavelength of the sound waves inside the pipe, then a signal could not be produced to cancel it, nor is there any structure claimed which acts to control signal in the electrode layer, thereby rendering the claim indefinite where the scope of the claim cannot be determined clearly.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in-

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(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Chevalier.

The patent to Chevalier discloses the recited pipe comprising extruded layers including an inner layer 12 made of plastic, outside of which is an inner electrode layer 14,16, outside of which is an insulating layer separating the inner electrode layer and an outer electrode layer 20,22, where the electrode layers are connected together in such a way that perforation of the layers brings about an alarm.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chevalier in view of Charboneau. The patent to Chevalier discloses all of the recited structure with the exception of utilizing the electrode layer to detect strain to sound an alarm. The patent to Charboneau

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discloses the recited pipe comprising an inner layer 32 of plastic, electrodes 16, 38,46 which can sound an alarm if they are broken or can also detect strain and sound an alarm. It would have been obvious to one skilled in the art to modify the pipe in Chevalier to use the electrode layer to detect strain to sound the alarm as suggested by Charboneau as such would sound an alarm before the electrode layer is broken.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chevalier in view of Swinbanks. The patent to Chevalier discloses all of the recited structure with the exception of using the electrode layer to create sound in the tube to cancel noise in the pipe. The patent to Swinbanks discloses the recited cancellation of sound waves in a pipe by generating a wave to cancel the noise sound waves using electrodes 1, 2, 6. It would have been obvious to one skilled in the art to modify the pipe in Chevalier by providing structure to use the electrode layer to create a sound wave that will cancel out noise waves in the pipe as suggested by Swinbanks to make the pipe quieter.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Schmidt, Dragoumis, Davidson, Jr., Mizuochi, Coxon, Goodman, and Winter disclosing state of the art pipes.

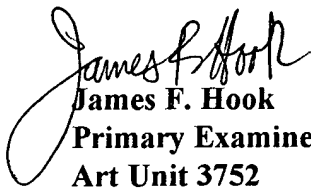
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Hook whose telephone number is (703) 308-2913.

J. Hook  
September 30, 2002

  
**James F. Hook**  
**Primary Examiner**  
**Art Unit 3752**